

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015

COMMITTEE STATEMENT

LB643

Hearing Date: Friday March 06, 2015
Committee On: Judiciary
Introducer: Garrett
One Liner: Adopt the Cannabis Compassion and Care Act

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye: 7 Senators Chambers, Coash, Ebke, Krist, Morfeld, Pansing Brooks, Seiler
Nay: 1 Senator Williams
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

SEN. TOMMY GARRETT
ROBERT MIKOS
VINCENT LITWINOWICZ
MARIE RIEKE
NICOLE JACOBSON
DESIREE STEDNITZ
CAMERON BADGER
JANE STANLEY
CAROL SHEPHERD
ALFREDO SINECO
AARON WIENER
LYNN REDDING
PAIGE FIGI
SARAH LYON
AMBER MCCONKEY
BRIAN GAUGHAN
TERESA MOBERLY
DEBRA TIMM
SIERA HEHNER
SHELLEY GILLEN
DOMINIC GILLEN
SHARI LAWLOR

Representing:

INTRODUCER
VANDERBILT UNIVERSITY
SELF
SELF
SELF
SELF
SELF
LADIES AND GENTLEMEN
SELF
SELF
SELF
SELF
REALM OF CARING
SELF
SELF
L.E.A.P.
SELF
SELF
SELF
SELF
SELF

Opponents:

HOWARD MCINTOSH
SUSIE DUGAN
JOSEPH ACIERNO
ANN FROHMAN

Representing:

SELF
DRUGWATCH INTERNATIONAL
DHHS
NMA

LINDA FORD
TANA LEE TOLSON
DAVID PARTSCH
SHAWN HEBBERT
RALPH SMITH

NMA
ROBERT MELAMEDE PHD
COUNTY ATTORNEYS ASSOCIATION
NEBRASKA SHERIFF'S ASSOCIATION
SELF

Neutral:

DAVID SWARTZ
JACOB NOWATZKE
JONI COVER
ANDRIANA BASS
JAMIE TAYLOR

Representing:

SELF
SELF
NE PHARMACISTS ASSOCIATION
SELF
SELF

Summary of purpose and/or changes:

LB643 would adopt the Cannabis Compassion and Care Act, to provide for the regulation and taxation of medical cannabis.

Section 1 provides that sections 1 to 11 of this act shall be known as the Cannabis Compassion and Care Act.

Section 2 provides new language stating Legislative findings regarding the purpose of this act.

Section 3 provides new language defining terms for purposes of this act.

Terms defined include: "bona fide practitioner", "cardholder", "compassion board", "cannabis", "compassion center staffer", "debilitating medical condition", "department", "designated caregiver", "enclosed, locked facility", "excluded felony offense", "medical use", "practitioner", "qualifying patient", "registered compassion center", "registry identification card", "unusable cannabis", "usable cannabis", "verification system", "visiting qualifying patient", and "written certification".

Section 4 includes provisions regarding the authorized possession of cannabis under this act.

Subsection (1) states that a qualifying patient with a registry ID card who possesses less than 12 cannabis plants and 6 ounces of usable cannabis shall not be subject to arrest or prosecution for the medical use of cannabis in accordance with the Cannabis Compassion and Care Act.

Subsection (2) states that a designated caregiver with a registry ID card who possesses less than 12 cannabis plants and 6 ounces of usable cannabis for each qualifying patient shall not be subject to arrest or prosecution for the medical use of cannabis in accordance with the Cannabis Compassion and Care Act.

Subsection (3) states that qualifying patients and designated caregivers may possess up to 12 cannabis seedlings, in addition to the amounts specified in subsections (1) and (2).

Subsection (4) provides a rebuttable presumption that a qualifying patient or designated caregiver who meets certain criteria is engaged in the medical use of cannabis in accordance with the Cannabis Compassion and Care Act.

Subsection (5) states that a qualifying patient or designated caregiver who gives cannabis to a qualifying patient or designated caregiver shall not be subject to arrest or prosecution for the medical use of cannabis in accordance with the Cannabis Compassion and Care Act, if nothing of value is transferred in return.

Subsection (6) states that medical cannabis users may not be discriminated against by schools, landlords, medical caregivers, or employers, unless a failure to do so would be a violation of federal law.

Subsection (7) states that there shall be no presumption of neglect or child endangerment for conduct allowed under the Cannabis Compassion and Care Act unless the behavior creates an unreasonable danger to the safety of a minor.

Subsection (8) states that a caregiver who receives compensation for services provided under the act shall not constitute the sale of a controlled substance.

Subsection (9) states that a practitioner shall not be subject to arrest, prosecution, or disciplinary action for stating that a patient is likely to receive therapeutic benefit from the medical use of cannabis.

Subsection (10) states that a person shall not be subject to arrest, prosecution, or disciplinary action for providing a registered qualifying patient or designated caregiver with cannabis paraphernalia for the medical use of cannabis.

Subsection (11) states that certain property possessed in connection with the medical use of cannabis shall not be seized or forfeited.

Subsection (12) states that a person shall not be subject to arrest, prosecution, or disciplinary action for being in the presence of the medical use of cannabis.

Subsection (13) states that a registry ID card issued in another state shall have the same force and effect as a registry ID card issued in Nebraska.

Section 5 governs the registration of compassion centers, the regulation of compassion center staffers, the dispensation of cannabis to designated caregivers or registered qualifying patients using a registry ID verification system, and the acquisition of cannabis and cannabis related supplies.

Section 6 provides that the Department of Health and Human Services would have 90 days to promulgate rules and regulations to implement this act. Rules and regulations would govern the selection of additional debilitating medical conditions allowed under the act, the manner in which the department considers applications for registry ID cards, the manner in which the department considers applications for registration certificates for registered compassion centers, the prevention of theft of cannabis from compassion centers, and application and renewal fees.

Section 7 provides that the department shall issue registry ID cards to qualifying patients and designated caregivers who submit information in accordance with rules and regulations.

Subsection (1) specifies the information a qualifying patient must include in an application for a registry ID card.

Subsection (2) states that the department shall not issue a registry ID card to a qualifying patient under 18 years of age, except in certain circumstances.

Subsection (3) states that the department shall verify the information provided in a registry ID card application, and approve or deny the application within 15 days. Rejection of an application would be considered a final department action subject to judicial review.

Subsection (4) states that a designated caregiver shall be issued a registry ID card each time the caregiver is designated by a qualifying patient.

Subsection (5) states that the department shall issue registry ID cards within 5 days after approving an application or renewal, and specifies information to be contained on registry ID cards.

Subsection (6) states that certain notifications and department responses are required, including change of medical condition or change of address, and provides a civil penalty of \$150 for failure to notify the department of a change.

Subsection (7) states that possession of a registry ID card shall not constitute probable cause or reasonable suspicion.

Subsection (8) provides confidentiality rules, and states that the penalty for breach of confidentiality is a Class II misdemeanor.

Subsection (9) provides that a cardholder who sells cannabis may have the registry ID card revoked and shall be subject to other penalties.

Subsection (10) requires an annual report to the Legislature.

Subsection (11) states that a law enforcement agency shall not provide information regarding a registered cardholder to any law enforcement authority that does not recognize the protection of the Cannabis Compassion and Care Act.

Section 8 provides that a patient may assert the medical use of cannabis as a legal defense to any prosecution of a cannabis related offense, except as provided in section 9 of this act.

Section 9 states that the Cannabis Compassion and Care Act shall not prevent the imposition of civil or criminal penalties for certain actions.

Subsection (3) provides that the penalty for fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is a Class V misdemeanor.

Section 10 provides options for a qualifying patient or a prospective board member of a compassion center in the event that the department fails to adopt and promulgate rules and regulations within 90 days after the effective date of this act.

Section 11 provides for the establishment of a compassion board within the department to advise the chief executive officer about the administration of the act.

Section 12 would amend 77-4303, to provide that persons lawfully in possession of cannabis under this act shall pay the tax required by sections 77-4301 to 77-4316.

Section 13 provides a severability clause.

Section 14 repeals the section amended by this act.

Explanation of amendments:

AM1254 clarifies and simplifies a number of provisions in the original bill.

Under the amendment, the Department of Health and Human Services Division of Public Health would create a registry of patients with a qualifying medical condition that would be permitted to obtain medical cannabis. The diagnosis of a qualifying medical condition would be certified by a health care practitioner licensed to practice medicine and surgery. A registered designated caregiver may also be approved if the health care practitioner certifies that the patient is unable to acquire or self-administer medical cannabis due to a developmental or physical disability.

The department would be required to register two medical cannabis manufacturers by December 1, 2015. Each manufacturer would be required to operate four distribution centers as soon as July 1, 2016 but no later than July 1, 2017. The actual distribution of medical cannabis to patients would be limited to licensed pharmacists.

The department would be required to promulgate rules and regulations related to the registration of manufacturers and the operation of the manufacturing and distribution facilities.

